IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH JAIPUR

S.B.CIVIL WRIT PETITION NO.1184/2001.

Priya Ranjan Shukla.

VERSUS

Malaviya Regional Engineering College, Jaipur & Another.

07.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Amit Sharma, for the petitioner.
Mrs.Naina Saraf, for the respondents.

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This writ petition has been filed by the petitioner who was student of Malaviya Regional Engineering College, Jaipur which has since then become Malaviya National Institute of Technology, Jaipur (MNIT). The relief which the petitioner is seeking is in respect of the respondent-Institution not permitting the petitioner to appear at the B.E.(Part-2) Examination for the year 2000 relating to the academic year 1999-2000.

As per the case of the respondents, the attendance of the petitioner was short in two subjects namely Maths Paper-3, Geology and Minerology and Metallurgy (in theory and practical) for the Second Year (Part-2) Examination for the Sessions 1999-2000. The petitioner submitted a representation to the respondent vide Annexure-2 explaining the position that his father who was serving in the Indian Air Force as Squadron Leader while being posted at Air Base, Nasik died in an accident at the Air Force Station. He submitted that he had two younger sisters aged 18 and 12 years and mother to look after and, therefore, had to remain at Nasik for a considerable period of time to be with the family in their hour of grief on account of the death of his father as he was the only male member left to support and comfort them. In the aforesaid representation (Annexure-2), which was submitted by the petitioner, the petitioner prayed that his case may be considered in the light of the above circumstances and he may be permitted to appear at the examination condoning the shortage of attendance in the above subjects.

Despite the aforesaid representation having been filed the respondents did not send any response to the petitioner by way of any reply to the said representation.

Since the examinations were to commence the petitioner approached this court and this court on 21.03.2001 passed an interim order while issuing notices to show cause. The said order reads as under :-

> "Heard learned counsel for the petitioner Mr.Amit Sharma.
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> The learned counsel for the petitioner submits that on 16.3.2001, the petitioner was told for the first time that he will not be allowed to take the examination in Matematics-III, which is going to be held on 23.3.2001 and Geology and Minerology which is to be held on 4.4.2001. He also submits that the dates for the sessional examinations in Metallurgical Thermodynamics and Geology and Mineralogy have not yet been fixed but the petitioner has been shown short of attendance in these subjects also. The learned counsel for the petitioner submits that the time given for challenging the decision on shortage of attendance is so short that it leaves no time for getting redress either from the Court or from the University whether on legal or on compassionate ground.
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> Issue show cause notices to the respondents as to why this petition be not admitted and disposed of at this stage. Rule is made returnable by four weeks. Issue notices of stay application also, returnable by four weeks.
>
> In the meanwhile, the respondents shall allow the petitioner to take B.E. Part-II examination commencing from 23.3.2001 in all papers including Maths-3, Geology and Minerology, Metallurgical Thermodynamics and Geology and Mineralogy. The result of the petitioner's examination shall not be declared until further order of this Court."

Thus, while issuing notices to the respondents, this court vide the interim order allowed the petitioner to appear at the ensuing examinations commencing from 23.03.2001 for the B.E.Part-2. The result of the petitioner was, however, as ordered not declared. The writ

petition remains pending before this court and after service no reply to the writ petition has been filed nor has this court been informed the result of the representation submitted by the petitioner.

It has been submitted by the learned counsel for the petitioner that in pursuance of the interim order of this court mentioned above, the petitioner appeared at the Part-2 Examination and thereafter in subsequent years has also the petitioner was allowed to appear by the respondents though there was no interim order of this court, and he appeared at Part-3 and Part-4 Examinations of B.E.Course at the MNIT, Jaipur and has completed the course and has passed the Part-3 and Part-4 Examination for which the result has been declared by the respondents.

With a view to satisfy as to whether the petitioner had passed the Part-2 Examination for which the petitioner was allowed to appear vide the interim order of this court, this court had summoned the result of the petitioner and it was disclosed by the learned counsel for the respondent that the petitioner had in fact passed the B.E. Part-2 Examination for the Session 2000-2001.

In the facts and circumstances of this case, the position that emerges is that it is not in dispute that the father of the petitioner who was serving in the Indian Air Force died as a result of an accident at Air Base, Nasik and the petitioner had to remain with his widowed mother and two younger sisters with a view to console them in their hour of brief. The above situation could not have been comprehended by the petitioner when he took admission for the said course and in view of the tragic circumstances, the petitioner had to remain away from his college as a result of the accident in which he lost his father. This is an unforeseen event and the absence was due to an justifiable reasons. None the less, the petitioner after having overcome the grief, returned to his studies and has pursued his course and under orders of this court appeared in the Examinations and as submitted by the learned counsel for the respondent he has passed the Part-2 Examination for which his attendance was short in the two subjects mentioned above. The petitioner has further passed Part-3 and Part-4 Examinations and has also

successfully completed his course and it is only on account of the pendency of this writ petition that his degree for B.E. is being withheld as his result for Part-2 Examination was not declared.

It is true that matters pertaining to relaxation in shortage of attendance and other related academic matters must be decided by the academic bodies themselves. However, in the present case and in the facts and circumstances of the case, the petitioner submitted a representation before the concerned authorities but the authorities for the reasons best known have failed to take any decision on the said representation. The present case to my mind deserves to be allowed on the ground of justice being tempered with mercy. It would be a travesty of justice to deny the petitioner the desired relief and ask him to appear in the Part-2 Examination again if his shortage of attendance is not condoned. The petitioner, as submitted by the respondents, having appeared at the examination by virtue of the interim orders of this court has successfully passed the same and he has also passed the subsequent examinations to which he was admitted by the respondents themselves and appeared at the Part-3 and Part-4 Examination in the years 2002 and 2003 respectively. He has already suffered on account of non-awarding of degree for the last three years as it was directed by this court in the interim orders that the result of the examination of the petitioner for Part-2 Examination shall not be declared without further orders of this court.

Though in the normal circumstances, this court would have only directed the respondents to consider the representation of the petitioner and decide the same pertaining to condonation of shortage of attendance, however, in view of the special circumstances of the present case, I deem it just and proper to allow the application submitted by the petitioner and direct the respondents to condone the shortage of attendance of the petitioner and declare his result of Part-2 Examination. The result be declared within a period of two weeks from submission of certified copy of this order. It may be added here that often cases arise when students submit representation about their grievances to the University authorities but no action is taken on the

same and they have to rush to the courts for relief. In such circumstances, it would be better for the Universities and Colleges to set up a in house grievance redressal system and decide the matter expeditiously so that students do not have to rush to courts.

Consequently, this writ petition as well as the stay applications stands disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.